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ATTORNEY DOCKET NO. 14028.0292
PATENT 1/4 1/20/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 12 2001

TECH CENTER 1600/290G

In re Application of)
Neville et al.)
Serial No.: 09/383,695) Group Art Unit: 1642
Filed: August 26, 1999) Examiner: Ungar, S.
For: "METHODS OF INDUCING IMMUNE)
TOLERANCE USING IMMUNOTOXINS")

ELECTION UNDER RESTRICTION/ELECTION REQUIREMENT

Assistant Commissioner of Patents
Washington, D.C. 20231

NEEDLE & ROSENBERG, P.C
Suite 1200, The Candler Building
127 Peachtree Street, N.E.
Atlanta, Georgia 30303-1811

January 5, 2001

Sir:

In response to the restriction/election requirement of December 5, 2000, applicants provisionally elect, with traverse, the species of donor cells as allogeneic and of immunosuppressant as deoxyspergualin. Claims 1, 2, 3, 4, 6, 9, 10, and 22 are readable upon the elected species. Claims 1 and 6 are generic. If either claim 1 or 6 is deemed to be allowable, applicants request consideration of additional species in accordance with 37 C.F.R. § 1.141.

The Examiner has requested that the applicants elect two specific "species." Applicants traverse this election of species requirement for the following reasons. As discussed in the 37 C.F.R. § 1.141(a), an application may claim a reasonable number of species within a claimed

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genus as long as at least one genus claim encompassing all of the species is patentable. The JAN 12 2001
Examiner has indicated that a *specific* type of donor cell (from a choice of two) and a *specific* TECH CENTER 1600/2900
type of immunosuppressant (from a choice of three) must be elected. Applicants assert that this
is not an appropriate application of the 37 C.F.R. § 1.141, which is aimed at situations where
there are unreasonable numbers of species claimed. The present situation is not a situation where
the applicants are claiming a genus of compounds, for example, a set of 1000 different nucleic
acid molecules, and also claiming each of the encompassed species separately, which would be
an appropriate application of the election of species requirement. Rather, applicants have
claimed a method having a defined number of steps, and then claimed a reasonable number of
dependent variations on that method. Applicants are not required in the present application to
elect a species when applicants have not claimed an unreasonable number of species. Applicants
thus respectfully request reconsideration of the election requirement.

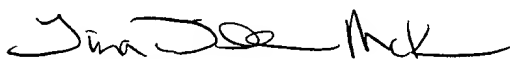
Applicants also request correction of the Attorney Docket number for the present
application from 14014.0225 to 14028.0292.

No fee is believed to be due for this response; however, the Commissioner is hereby
authorized to charge any additional fees which may be required to Deposit Account No. 14-0629.

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Respectfully submitted,

JAN 12 2001



TECH CENTER 1600/2900

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed
to: Assistant Commissioner of Patents, Washington, D.C. 20231, on the date shown below.



Tina Williams McKeon

January 5, 2000

Date